

FISCAL NOTE

Bill #: SB0408

Title: Authorize jury trial for termination of parental rights

Primary Sponsor: O'Neil, J.

Status: As Introduced

Sponsor signature

Date

David Ewer, Budget Director

Date

Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
General Fund	\$569,397	\$569,397
Federal Special Revenue	\$108,214	\$108,214
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	(\$569,397)	(\$569,397)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

Department of Public Health and Human Services

1. This bill will allow for a jury trial in proceedings for parental rights terminations.
2. The Child and Family Services Division (CFSD) currently handles approximately 340 Termination of Parental Rights hearings per year. Each hearing affects an average of two children per family in which termination is the end result. This results in approximately 680 children affected through parental termination each year ($340 \times 2 = 680$).
3. For purposes of this fiscal note, it is assumed that 30 percent, or 204 of those cases would result in a request for a trial by jury ($680 \times .30 = 204$).
4. This bill will increase the length of time children spend in foster care because the court will have to hold separate hearings for termination of parental rights for the father and mother of a child. We are estimating the children will remain in the foster care program an average of 60 days longer. This would result in a total of 12,240 total additional days ($204 \text{ children} \times 60 \text{ days} = 12,240$).
5. The average cost per day to maintain a child in foster care is \$29.47. An additional 12,240 days will cost an additional \$360,713 in foster care maintenance expenditures ($\$29.47 \times 12,240 = \$360,713$).
6. It is assumed that the expenditures will be funded at 70 percent general fund and 30 percent federal funds.

Fiscal Note Request SB0408, As Introduced

(continued)

- a. General Fund $\$360,713 \times .70 = \$252,499$
- b. Federal Funds $\$360,713 \times .30 = \$108,214$

Judicial Branch

- 7. According to DPHHS, approximately 204 jury trials would be necessary each year under this bill.
- 8. The Judicial Branch would be responsible for the civil jury costs in all of these cases.
- 9. In civil jury cases, a pool of 50 jurors is called to serve, from which 12 jurors plus one alternate are selected.
- 10. Jurors pooled but not selected are paid \$12. Selected jurors are paid \$25 per day.
- 11. Parental termination cases are assumed to last an average of three days.
- 12. Each jury trial would cost \$1,419.
 - a. Selected jurors: $13 \text{ jurors} \times \$25 \times 3 \text{ days} = \975
 - b. Pooled jurors: $37 \text{ jurors} \times \$12 = \$444$
 - c. Total cost: $\$975 + \$444 = \$1,419$ per trial
- 13. The total estimated cost for jury fees statewide would be \$289,476 ($\$1,419 \times 204$ trials).
- 14. The Judicial Branch will incur costs associated with juror mileage reimbursement. The projected cost of mileage reimbursement for 204 trials is \$23,256 (based on Yellowstone County mileage reimbursements for FY 2004).
- 15. The Judicial Branch will incur the costs of impaneling these juries. The Judicial Branch reimburses the county Clerks of Court for postage and other costs associated with calling a jury. Postage costs are projected to be \$4,166 ($\$.4084 \text{ postage per juror} \times 50 \text{ jurors} \times 204 \text{ trials} = \$4,166$).
- 16. All costs are paid by the general fund.
- 17. This legislation will significantly increase district court caseloads. The impact of this legislation will require additional judicial resources since the court dockets are already full. The Judicial Branch is unable to estimate the immediate impact on judicial workload or the fiscal impact during the biennium.

FISCAL IMPACT:

	FY 2006 <u>Difference</u>	FY 2007 <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$316,898	\$316,898
Benefits	<u>360,713</u>	<u>360,713</u>
TOTAL	\$677,611	\$677,611

Funding of Expenditures:

General Fund (01)	\$569,397	\$569,397
Federal Special Revenue (03)	<u>108,214</u>	<u>108,214</u>
TOTAL	\$677,611	\$677,611

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$569,397)	(\$569,397)
Federal Special Revenue (03)	<u>(108,214)</u>	<u>(108,214)</u>
TOTAL	(\$677,611)	(\$677,611)

Fiscal Note Request SB0408, As Introduced

(continued)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

It is estimated that the time involved in conducting jury trials for an additional 204 children would result in a need for additional county attorneys and judges.

TECHNICAL NOTES:

1. CFSD is currently under a Federal Child and Family Services Program Improvement Plan, which is a corrective action with fiscal penalties. Permanency outcome number 10, "length of time to achieve the permanency goal of adoption," has to be achieved within 24 months of the date of a child entering care. This bill may negatively affect the ability to comply with the program improvement plan. If this goal is not met a federal penalty could be imposed. This penalty could amount to \$400,000 for FY 2006 and \$800,000 for FY 2007, all of which would be general fund.
2. Scheduling jury trials will require a jury selection process and scheduling time on court dockets will be more difficult. States that have passed similar laws, such as Oklahoma and Texas, have found that jury trials resulted in backlogs on the court dockets and that children remained in foster care longer.
3. Child abuse and neglect cases receive the highest priority in district courts. The additional number of jury trials created by this bill will create significant additional backlog on the courts' already full dockets.